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DADE COUNTY COMMISSION

11

REGULAR MEETING

12

JULY 3, 2008

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1 MR. LOWERY: Okay. I was wrong. It
2 was a little more than five minutes. Before we
3 start our meeting, as usual, we'll start out with a
4 prayer and the Pledge of Allegiance. I'm going to
5 ask Mr. Ray Boydston, if he will, to come forward
6 and lead us in the prayer and then the Pledge of
7 Allegiance.

8 (Thereupon, the invocation and
9 Pledge of Allegiance were given.)

10 MR. LOWERY: This is the regularly
11 scheduled meeting of the Dade County Commission
12 which takes place at the same time on the first
13 Thursday of every month. Proper notice of this
14 meeting was given to the legal organ of Dade County
15 and has been posted in the hallway at the
16 Administration Building.

17 I'll call the roll of all the
18 Commissioners and have it recorded. Mr. Pittman?

19 MR. PITTMAN: Here.

20 MR. LOWERY: Mr. Young?

21 MR. YOUNG: Here.

22 MR. LOWERY: Ms. Moore?

23 MS. MOORE: Here.

24 MR. LOWERY: Commissioner Brandon is
25 absent tonight.

1 MR. PITTMAN: Is there a reason?

2 MR. LOWERY: Yeah. The reading of the
3 minutes of the June 2008 regular meeting will not be
4 required since all Commissioners have been furnished
5 a copy in advance. The minutes are public record
6 and available for review in the county manager's
7 office. The minutes are included in the consent
8 agenda.

9 At this time, I would ask that the
10 clerk read all the other items on -- also in the
11 consent agenda, please.

12 MR. TOWNSEND: We have the regular
13 agenda as amended, approval of previous meeting
14 minutes, the approval of new appointments of -- new
15 employees, I should say. The approval of invoices
16 as presented, resolution for submittal of Georgia
17 Heritage Grant application, the ordinance regarding
18 parking lot truck restrictions at the parks and
19 recreation area, an ordinance for the NIMS as
20 presented by Alex Case, public notice to Consultant
21 Engineers for Burkhalter Gap Road as presented, and
22 the anticipated time line for the 2008 millage rate
23 calling a special-called meeting setting the millage
24 rate for July 24th, 2008. What time do we need to
25 set the time on that, 5:00?

1 MR. LOWERY: 5:00 is good with me.

2 MR. TOWNSEND: That's all.

3 MR. LOWERY: Is that it?

4 MR. TOWNSEND: Yes.

5 MR. LOWERY: Okay. Commissioners'
6 district reports, anybody have anything they would
7 like to report on tonight?

8 MR. ROGERS: Oh, Mr. Chairman, are you
9 going to ask for a vote to approve the consent
10 agenda?

11 MR. LOWERY: I missed one, didn't I?
12 You can tell I don't do this all the time. Okay.
13 I'll need somebody to make a motion to approve the
14 consent agenda.

15 MR. PITTMAN: I make a motion we
16 approve the consent agenda.

17 MR. LOWERY: Do I have a second?

18 MR. YOUNG: I'll second.

19 MR. LOWERY: Okay. Mr. Pittman?

20 MR. PITTMAN: Yes.

21 MR. LOWERY: Mr. Young?

22 MR. YOUNG: Yes.

23 MR. LOWERY: Ms. Moore?

24 MS. MOORE: Yes.

25 MR. LOWERY: The chairman votes yes.

1 Let's see here, district reports, I think Scottie
2 said he had something he would like to report on.

3 MR. PITTMAN: Yeah. I talked to
4 Senator Jeff Mullis today and I had requested that
5 the Davis community be looked at to get a walking
6 track. These things are crazy. He said that --
7 Jeff informed me that Davis should be getting -- he
8 wasn't sure if it was 5 or \$10,000 to help us, aid
9 the community center in building a walking track.
10 So I think we have enough money in the community
11 center to finish that out. So anybody from the
12 Davis community, hopefully we will be getting a
13 walking track in the near future and that's all I've
14 got.

15 MR. LOWERY: Mr. Young, do you have
16 anything?

17 MR. YOUNG: No.

18 MR. LOWERY: Ms. Moore?

19 MS. MOORE: No.

20 MR. LOWERY: The executive update
21 tonight, Mr. Brandon is not here. He is once again
22 on vacation. He gave no notice whatsoever, so I'm
23 filling in, doing the best I can and -- well, that's
24 the way it will go.

25 One of the things I want to report on,

1 the people who do go vote July 15th, there's going
2 to be some -- from what I understand, a little
3 stricter standards when you go to vote. It's my
4 understanding that the State of Georgia will
5 actually have a person at each polling place and
6 they will be checking -- I don't know if they're
7 doing it for everybody or just Dade County. I don't
8 know what brought that on. But if you drive into a
9 voting place and you have a sticker on your car for
10 a certain candidate, they will make you block that
11 off. I know that they've -- they're going to have,
12 I think, duct tape or masking tape for you to put
13 over it to keep you from having to leave. So it
14 might save you a little time before you go to the
15 voting polling place to remove any kind of
16 advertisements. So I just thought I would throw
17 that in.

18 In our special-called meeting, we're
19 looking at not having a budget increase this year.
20 We talked about -- what was the figure, Don, 600 and
21 something thousand dollars?

22 MR. TOWNSEND: Approximately \$650,000.

23 MR. LOWERY: Roughly \$650,000 is going
24 to have to be cut out of the budget to be able to do
25 this with no tax increase. I'm all for it. I'm

1 glad the other Commissioners are. We talked a
2 little about it in the work session, how important
3 the S.P.L.O.S.T is and we may talk about that later,
4 but I can't get into that part of it too deep at
5 this time.

6 Okay. Under appearances, we have
7 Mr. Barton Harris, mayor of the City of Trenton. I
8 don't see Mr. Harris. I see Anthony Emanuel. I
9 wonder if he would fill in for him. There he is. I
10 still call you mayor, Mr. Emanuel.

11 Okay. He's not here tonight, so I'm
12 going to introduce Mr. Ray Boydston. He's the one
13 that said our prayer and our Pledge of Allegiance
14 tonight and I appreciate him doing that. He's with
15 the Soldiers for God and I'll just let him come up.
16 If you want to step up to the microphone.

17 MR. BOYDSTON: I am with an
18 organization called Soldiers for God. We interact
19 with another veterans association over in Tennessee
20 called The Tennessee Veterans and also with the
21 American Legion and we do things like hand out
22 plaques to Vietnam -- I mean, Iraq and Iran soldiers
23 that's returning back. We give them a plaque
24 showing them appreciation and we also do ceremonies,
25 military ceremonies and military funerals and so

1 forth and we would like to install a POW/MIA flag on
2 your flag pole at the east side of the old
3 courthouse and this would be free of charge and when
4 it becomes worn or tattered or faded, we will
5 replace it for \$8. And we would -- we don't know
6 right now when we could do it. I would have to get
7 with the group and we would come up and put it up.

8 MR. LOWERY: Now, when I met you today
9 for the first time in the Commission office, I asked
10 you if the local American Legion Commander has, you
11 know, gave its blessing on this and I don't know if
12 you've got a chance to talk with them yet.

13 MR. BOYDSTON: No. I haven't talked
14 with them. I've talk with the Tennessee Veterans
15 Organization and we -- we did a ceremony with the
16 American Legion out here at the gazebo at the
17 Veterans Memorial a short time back and we may be
18 doing the honor guard at this funeral next
19 Thursday -- I mean, Friday and Saturday of the MIA
20 that's returned. If not, we will attend the funeral
21 and show our respects. So that's up in the air. It
22 may be that the military will do it, but we are on
23 standby to do it.

24 MR. LOWERY: David is one of our -- I
25 guess you're the only Commissioner that -- no, I

1 think Ben served some, too. He is a veteran, David
2 is, David Young.

3 MR. BOYDSTON: We'd love to have him
4 aboard.

5 MR. LOWERY: So he's a member of the
6 American Legion also. What's your feelings on this,
7 David?

8 MR. YOUNG: I don't have a problem with
9 it at all.

10 MR. LOWERY: Ms. Moore?

11 MS. MOORE: No.

12 MR. LOWERY: Anything we need to vote
13 on, Robin?

14 MR. ROGERS: I don't know that this
15 requires a vote or resolution. The request is to
16 put an initial flag on the -- I don't know. No harm
17 in that.

18 MR. PITTMAN: How often do you think
19 the flag will need to be replaced, Mr. Boydston, two
20 or three times a year maybe?

21 MR. BOYDSTON: Two or three times a
22 year, yeah.

23 MR. PITTMAN: And y'all will keep an
24 eye on that?

25 MR. BOYDSTON: Yes. We monitor it and

1 we'll let you know if it needs replacing when it
2 gets tattered. A tattered and faded flag is a
3 disgrace, so we want to replace it.

4 MR. LOWERY: And we pay you the \$8, the
5 County pays the \$8 to your organization?

6 MR. BOYDSTON: Soldiers for God, yes.
7 That would be when we think that it needs changing,
8 we would let you know. But the first one is free.

9 MR. LOWERY: Sounds like a good
10 organization. I know it's appreciated by a lot of
11 the people. You have the full support of the
12 Commission and it does not require a vote and we
13 have our -- Bruce Castleberry, what's his title
14 again, building maintenance, code enforcement
15 officer. He looks after the flags. If you'll get
16 with him, I think he'll help you out. Alex Case is
17 probably instrumental in helping keep our American
18 flag flying out there, too.

19 MR. BOYDSTON: We'll get with Bruce
20 when we get ready to put it up.

21 MR. LOWERY: Yes, sir. That will
22 just -- that way there will be no question why
23 you're out there hanging the flag up. Thank you for
24 your service.

25 MR. BOYDSTON: Thank you very much.

1 MR. LOWERY: Okay. Fiscal matters,
2 Mr. Clerk.

3 MR. TOWNSEND: Okay. Under tab one,
4 you see the account balance report. Drug education
5 fund, 81,995; federal asset fund, 10,877; special
6 sheriff's fund, \$43,728; jail fund, 16,959; juvenile
7 services fund, \$12,964; victim assistance fund,
8 \$2,576; payroll account, 75,928; general fund
9 balance, 230,351. S.P.L.O.S.T funds, the principal
10 and interest account, 1,547,537. The principal and
11 interest CDs, 350,000; P&I debt services account,
12 21,402 for a total of \$1,918,939. Capital bond fund
13 account, \$737 -- \$737,652; capital bond CDs, 100,000
14 and total capital bond fund balance, \$837,652.

15 And the next page shows the principal
16 and interest and S.P.L.O.S.T CDs, I should say, as
17 well as the redeemed at the bottom. The next page
18 is the renewed CDs that we've had in the past and
19 history. On page four is the Dade County income
20 statement. With 50 percent of the year gone as of
21 June 30th, the -- we have received in revenues
22 446,542.65 for the month. The budget was 439,540,
23 so we were just a little above budget, \$7,002.65.
24 Now, the expenses -- and that's for 49.12 percent.
25 So we've collected revenues 49.12 percent out of

1 50 percent.

2 Expenses at the bottom for the
3 departmental level is \$594,691.83. The monthly
4 budget for expenses was \$691,036. So you see we
5 were actually under budget 96,344 -- I'm sorry,
6 \$96,344.39. That relates to 44.47 percent spent, so
7 again, out of 50 percent attainment, we've spent
8 only 44 percent, so we were under a little bit.
9 Revenues, however, less expenses for June, again,
10 was 148,149.18 in red. So, again, we did not
11 collect as much as we anticipated spending. And so,
12 again, we're about the fourth or fifth month in a
13 row now we have had to use that money in the
14 checking account, not just rely on what comes in
15 during the month and spend that during the month and
16 that's why the checking account now, you see a
17 balance of 230,000. Last month it was 500,00. The
18 month prior to that was 600. The month before that
19 was 800. So everyone is paid in full, but -- well,
20 money is drying up in the checking account.

21 Revenues less expenses year-to-date is
22 \$452,001.58. I do believe that the County -- maybe
23 on the June 24th meeting -- I don't want to
24 overload that agenda because hopefully it will be a
25 simple agenda, but it may be necessary to at least

1 discuss any type of short-term funding plan. We may
2 not have to do it, but I would like to be prepared
3 if we need to do it. If we have to fund at a
4 minimum, it would be nice to fund payroll if it
5 comes down to it.

6 July, I would say probably we will make
7 it through July fairly well. Come August, around
8 August 10th, 15th, I project the account balance
9 could get dangerously low and so that may require
10 short-term financing until we can start collecting
11 our property tax in the fall. Again, I say this --
12 I've said this two or three times. It's, again, for
13 discussion purposes, but it's up to y'all to make
14 that decision on July 24th for us to get through
15 it. October -- around October 16th we're
16 anticipating receiving around \$640,000, so at that
17 time, you know, we could pay off the bank if we need
18 to or wait until around November 5th or so.

19 Anyway, it's just something to be
20 thinking about. It all comes down to how the
21 lost -- if you look at your -- the next page in your
22 packet, you'll see the local -- the first page there
23 is revenues. If you look about halfway down, you'll
24 see local option sales tax and for the month, it was
25 short 38,000. It's just something we're going to

1 have to look at. I'm sorry. For the month -- yeah,
2 for the month it was 38,000 short. So we hope to
3 collect \$2,310,000, but you see it's only at
4 39 percent. So that's quite short.

5 But anyway, that's really the biggest
6 problem with our budget this year is what we
7 anticipated bringing in with local option sales tax,
8 we just haven't produced what we thought we were
9 going to produce. It's only at one point one
10 million right now -- I'm sorry, 923,000 actually
11 year-to-date and that should be well over a million.
12 So anyway --

13 MR. LOWERY: Now, correct me if I'm
14 wrong, but the difference between us borrowing money
15 last year -- we borrowed last year and I didn't have
16 a problem with it because the revenues were going to
17 come in to pay that money off, not property taxes,
18 but revenues from sale taxes and so forth; is that
19 correct?

20 MR. TOWNSEND: I don't --

21 MR. LOWERY: Or did we once again use
22 our property taxes to pay off some of last year's
23 debt?

24 MR. TOWNSEND: Actually, when it came
25 in -- it was about 640,000 last year for the

1 insurance premium tax that came in that we used to
2 pay back the loan that was taken out for the tax
3 anticipation note that was taken out. So I mean, it
4 wasn't -- I mean, tax anticipation, it's the
5 local -- insurance premium tax, it still goes into
6 the general fund to help offset property tax, but, I
7 mean, it depends on -- 600,000 from which line item,
8 it doesn't really matter. It's still reducing. The
9 bottom line is it would be property taxes if it
10 would have been anything. We actually did use the
11 640,000 or so that we received from the insurance
12 rollback to pay off that note last year.

13 MS. MOORE: That comes in what month?

14 MR. TOWNSEND: It comes in about
15 October 16th. I mean, that's -- you know, about
16 October 10th or so is when tax notices will go out
17 and we start collecting around October 20th through
18 December 20th. Last year, you recall, we repealed
19 that resolution that you, I think, put in for us in
20 order to do.

21 MR. LOWERY: I would like to see us get
22 back to paying this year's taxes with this year's
23 bills, you know, not having to -- take next year's
24 taxes to pay the past year's bills. It's going to
25 be a hard thing to get to, especially with a down

1 economy. It's a good goal to work toward.

2 I want to apologize especially to Butch
3 back there. Our projector is still having some
4 technical problems. They tell us, I think, that
5 it's actually showing everything upside down.

6 MR. TOWNSEND: Well, they hung it up
7 the only way they knew to hang it up, but when it
8 displays, it's upside down. Anyway, supposedly,
9 there's a part coming to fix that.

10 MR. LOWERY: That's what they're
11 telling me and Scottie, but I think he's already let
12 the cat out of the bag. I think they're still
13 trying to figure out how to make it turn loose and
14 get one of us when we don't stay in line.

15 Okay. Anyway, next legal matters.
16 Wait just a minute, Robin. There's one other thing.
17 I know we don't want to extend that meeting out on
18 the 24th, but if we're losing this kind of money
19 in revenues and stuff, I think we need to also start
20 looking at maybe some ways of cutting some stuff
21 back now so that way we won't have to borrow as
22 much. We may want to make that -- I'm sorry, Robin.
23 Go ahead.

24 MR. TOWNSEND: Do y'all have any ideas
25 what you want to cut back?

1 MR. LOWERY: We'll talk about it.

2 MR. ROGERS: All right. On legal
3 matters, the only new development we've had is I
4 received a proposed order that would consolidate the
5 Rex Blevins and the Christina Holmes lawsuit and
6 those are identical issues, legal issues that, I
7 think, probably it's a good idea, more efficient to
8 do it that way. Unless I receive some -- hear some
9 objection from the Commission on that, I will agree
10 on behalf of the County to consolidate those two
11 cases.

12 MR. LOWERY: It will probably save us
13 money and save the County money by handling it that
14 way.

15 MR. ROGERS: Yes.

16 MR. LOWERY: Unfinished business, do we
17 have any unfinished business that you know of? New
18 business left over from the work session we had an
19 appointment to the Limestone Valley Resource
20 Conservation and Development Council, RC&D, for a
21 two-year appointment. I think there were some legal
22 questions about whether Mr. Young could serve on
23 here. Did you get that?

24 MR. ROGERS: I did. I did check on
25 that and that's okay to do that. I think most

1 counties do have one of the Commissioners to serve
2 on the board. The other issue that came up during
3 the work session was that David recused himself, so
4 we couldn't put it on the consent agenda.

5 MR. LOWERY: I'll tell you, I really
6 appreciate David offering to be on this board. He
7 is our professional when it comes to the
8 environmental and any kind of roads and issues of
9 that sort. He has really done a lot for the County
10 and he don't get the respect he deserves a lot of
11 times for that, but I would like to tell him.

12 Okay. I need a motion to approve Bruce
13 Castleberry and David Young to the RC&D Council.

14 MR. PITTMAN: I make a motion that we
15 approve Bruce Castleberry and David Young to the
16 Limestone RC&D.

17 MS. MOORE: I'll second the motion.

18 MR. LOWERY: Okay. We'll call for a
19 vote. Mr. Pittman?

20 MR. PITTMAN: Yes.

21 MR. LOWERY: Mr. Young?

22 MR. YOUNG: Abstain.

23 MR. LOWERY: Ms. Moore?

24 MS. MOORE: Yes.

25 MR. LOWERY: Chair votes yes, so the

1 motion is approved.

2 The last one we had left over from the
3 work session is triple coating a road in Industrial
4 Park leading to Gill Manufacturing. This will be
5 for the County to furnish the labor and the
6 equipment.

7 MR. MASSENGALE: Before we vote on it,
8 Lamar, didn't Barton say that they had bought an
9 asphalt paver to save a lot of money? Has anybody
10 considered about them doing it? I know the asphalt
11 is 40 something dollars a ton is less than \$50 a ton
12 and four tandem loads should do it. It would be
13 cheaper than what we could do it for. I just
14 happened to think about that. I don't know if
15 anybody considered it or not.

16 MR. LOWERY: Peter, do you have any
17 idea?

18 MR. CERVELLI: They have a paver. I
19 don't know why they assumed they would do the triple
20 coating.

21 MR. MASSENGALE: Paving would be a lot
22 better if they could do it. I just thought about
23 that. It would be better than what we would do. It
24 would be a better job. They've got the equipment to
25 do it.

1 MR. CERVELLI: I'll have that answer
2 Monday. I can't have it today.

3 MR. LOWERY: Has the new mayor, has he
4 been informed of any of this at all?

5 MR. CERVELLI: I have not seen the new
6 mayor.

7 MR. LOWERY: Neither have we. I
8 hate -- the City and the County really had a good
9 relationship under Emanuel -- Mr. Emanuel. I hope
10 that's going to pick back up. Maybe if somebody
11 wants to get with Barton Harris and tell him we'd
12 like to have him back in here. You know, that's one
13 thing the ex-mayor there has always preached was,
14 you know, they're county and city, too and we like
15 having them here and being involved.

16 MR. CERVELLI: Barton is on the road a
17 lot. That's all I can say.

18 MR. BRADFORD: He's in Indiana.

19 MR. LOWERY: Indiana. Okay. Well, we
20 might excuse him for that. Well, we won't take a
21 vote on this tonight then until you can talk to
22 that. I guess we'll just have to move it back to
23 that meeting on the 26th.

24 MS. MOORE: 24th.

25 MR. LOWERY: Is it the 26th or

1 24th? The 24th. I don't know what else to do
2 tonight on it.

3 MR. CERVELLI: I understand.

4 MR. LOWERY: Okay. With nothing left,
5 we'll move into citizen participation. Have we got
6 anybody that would like to come forward? Jeff
7 Forester?

8 MR. FORESTER: Basically,
9 three-and-a-half years ago I purchased a farm in
10 Dade County. We've put a lot of blood, sweat and
11 tears and money into this farm and built a home,
12 moved into the new home Saturday. Monday, this past
13 Monday, I received a letter from the Georgia
14 Department of Natural Resources, EPD Division, that
15 we are in violation of -- we've encroached a 25-foot
16 buffer zone on what they call state waters. It's
17 what I considered a dried up gully that runs about
18 three or four months out of the year, but now that I
19 know the law after the fact, they -- I think they
20 say that if it runs water one day a year and there's
21 some other variances there, too, but they consider
22 it state waters.

23 Luckily, my home is not in jeopardy
24 of -- I'm not having the problem Steve is having. I
25 do have an equally -- could be an equally as

1 devastating expense wise problem that they want me
2 to fix. I won't go any more -- I won't go into
3 details any more on that right now, but just, you
4 know, I never was notified in any way. I know
5 that -- I don't know if one or two or three
6 officials in Dade County knew about this. I was
7 never called. And, you know, I would encourage the
8 County -- I'm not sure what y'all have changed now.
9 I'm still learning these things, but I would
10 encourage y'all to figure out a way to work with the
11 citizens because I guarantee you 99 percent of the
12 people in Dade County and probably the State of
13 Georgia do not know this.

14 If you've got a little dried up gully
15 running through your property, just be aware because
16 you could be -- you could get in trouble big time
17 and it's not right. I don't see any way of this
18 being right. There's no way that I would have known
19 of such a law and, like I said, I've not talked to
20 anybody, even officials in Dade County that knew
21 about this sort of law and there's got to be a way
22 to catch this before the fact and not after the
23 fact. Hopefully, this can be resolved and that's
24 what we're trying to do with the EPD and any help we
25 can get from the County.

1 MR. LOWERY: I'm going to let -- David
2 is kind of our -- like I was bragging on him a while
3 ago, our expert in this field and we have been
4 working toward some of that and I'll let David kind
5 of explain what we have been doing and yours is the
6 case, the reason we have been doing this.

7 MR. YOUNG: We've had a couple of
8 public hearings on this and we had some -- we
9 actually became a local issuing authority and
10 matters that involve a stream buffer, we don't have
11 the ability to give any variances. Only the State
12 can do that, but the reason behind that is we've had
13 a lot of developers and people building that have
14 disturbed more than an acre and the EPD has come in
15 and, you know, just slammed the book at them.

16 MR. FORESTER: You know, I could
17 understand developments, absolutely.

18 MR. YOUNG: And so we were hoping to
19 help people. We're -- unless there's -- we're more
20 the educate, you know, the County is instead of
21 enforce. We would like to help people. Unless
22 there's immediate environmental problem with the
23 creek, we could issue -- you know, basically tell
24 residents to get a permit. The law changed in 2004,
25 I think it is. They changed it to if you disturb

1 more than an acre, that you have to get an erosion
2 control plan through the State and I would say maybe
3 about two years ago, some of the enforcement
4 officers for EPD changed and where the laws weren't
5 really enforced until about two years ago and so now
6 they're just driving the county and anything they
7 see, the next thing you know you see enforcement and
8 it's unfortunate. Some of the laws have gone, in my
9 opinion, a little bit too far overboard and I would
10 suggest people to contact the state representatives
11 and legislatures if they have concerns with this to
12 maybe get some of those laws changed.

13 MR. FORESTER: And just for the record,
14 in my case, I did come here before I ever disturbed
15 any land and come here not thinking that I was going
16 to make any -- break a law. I come looking for
17 assistance and I talked to the representative from
18 the U.S. --

19 MR. YOUNG: Mr. Joe Lee.

20 MR. LOWERY: So it's the Health
21 Department.

22 MR. YOUNG: No. NRCS.

23 MR. FORESTER: He remembers me coming
24 and talking to him. I come asking for assistance
25 for helping doing some work on my property and in

1 his defense, you know, he replied with the fact that
2 the State cut funding and they can't do that
3 anymore. He said used to they would and that's kind
4 of where it got left. So I proceeded with my things
5 on my property just to get this hefty fine and this
6 could get ugly if they make me do what they're
7 proposed to do.

8 MR. YOUNG: One thing I do know, too,
9 like the County, we got in trouble with this a while
10 back with the dam up on Lookout Creek. The order
11 they send is like the maximum extent of the law.
12 It's up into negotiation. You can negotiate with
13 them to get stuff cut down and we ended up signing
14 it where we could have negotiated the fine down and
15 a lot of other stuff. It's very common as far as
16 negotiations.

17 MR. FORESTER: Hopefully, it will be
18 resolved. I've not met with them yet. I do in
19 about a week and a half have to go meet with them.
20 That's all I've got.

21 MR. LOWERY: Would you mind helping him
22 if there's any --

23 MR. YOUNG: No. I'll talk with you
24 offline and let you know what I know about it.

25 MR. LOWERY: Mr. Faircloth? I think I

1 seen you in the paper this week.

2 MR. FAIRCLOTH: Well, I'm Steve
3 Faircloth and I'm in the same boat he is except my
4 house is in the buffer zone. I had no idea of the
5 law. Nobody I've talked to in this county knew
6 about the law and I don't see why the county can
7 turn people in without trying to, you know, tell
8 them first about the law. You know, you've got
9 people working for you calling the State on us and
10 we didn't know nothing about it. They come out and
11 give you a perk test and don't say a word to you.
12 Then, you know, the next thing, you get an
13 electrical test and they turn you in, you know. I
14 don't think that's right.

15 MR. LOWERY: The -- I'm going to ask
16 our attorney to answer that one. Would that be
17 okay, Robin? Our electrical inspector is the one
18 that turned you in and I think there was a reason
19 for that. Would you want to tell the legal reason
20 about the County's obligation or does the County
21 have an obligation to do that?

22 MR. ROGERS: To report it to the State?
23 Well, right now, I mean, we're in a different
24 situation. I'm not sure when this occurred. I
25 mean, was it -- was it recent?

1 MR. YOUNG: It was just recent. The
2 way it was explained to me, because what I said was
3 this house was probably under construction before we
4 became a local issuing authority and my feelings
5 were it was the State's responsibility to enforce it
6 and the way it was explained to me is that they
7 had -- they were told that we had to -- the County
8 had to report it to the State. That's what Bruce
9 told me.

10 MR. FAIRCLOTH: If they have to report
11 it, how come -- there's probably 50 other houses on
12 the creek. Where do you draw the line?

13 MR. LOWERY: Is there a legal
14 obligation for the County to turn these folks in?

15 MR. ROGERS: Well, you know, the rules
16 changed when we became a local issuing authority and
17 at that point for violations that, I guess, were
18 found or uncovered after that time, we handled
19 those, but for those occurring prior to that time,
20 particularly I think the State -- I was at a
21 meeting, I think, with David with some of them. If
22 the State was already involved in, you know, the
23 alleged violation, they would go ahead and continue
24 with that one, but they weren't -- I understand now,
25 they aren't taking any more violations or they're

1 not pursuing them any further. Is that right,
2 David? The ones that were already in process at the
3 time that the County became a local issuing
4 authority, the State is going to look at those and
5 proceed going forward. That's why I'm kind of
6 fumbling around because I'm not sure where you fell
7 within that time frame.

8 MR. LOWERY: How long has it been since
9 all this happened?

10 MR. FAIRCLOTH: It's been about three
11 weeks since I've been turned in.

12 MR. YOUNG: We can't give a variance
13 for stream buffer violations. The County can't.
14 Only the State can do that.

15 MR. FAIRCLOTH: The people I've talked
16 to at the EPD, they told me that they didn't go out
17 looking for people. They don't go out looking.
18 They have to do it. They only go out when somebody
19 turns them in.

20 MR. YOUNG: That's not what they told
21 me. If they see a new road in the County, they go
22 driving by it and then they check to see if the
23 person has a permit.

24 MR. FAIRCLOTH: I'm talking about like
25 personal, personal.

1 MR. ROGERS: I think Commissioner
2 Young's suggestion with Mr. Forester is probably a
3 good one for you as well that you may want to take a
4 look at that and see if it can be addressed.

5 MR. FAIRCLOTH: Yeah. I just wanted to
6 put it on record.

7 MR. LOWERY: It's my understanding,
8 too, that that creek has actually changed locations
9 basically after we had that last flood, the same one
10 that caused -- I think 2004.

11 MR. FAIRCLOTH: I recall --

12 MR. LOWERY: Do you think it maybe
13 shifted toward your house during that?

14 MR. FAIRCLOTH: -- the last time it got
15 change is when the County went over and changed it.

16 MR. LOWERY: Yeah. I remember that.

17 MR. FAIRCLOTH: I guess you guys are
18 allowed to.

19 MR. LOWERY: You're not allowed to get
20 in no creek bed. I can tell you that.

21 MS. MOORE: We did get in the creek
22 bed?

23 MR. LOWERY: Oh, I don't know.

24 MR. FAIRCLOTH: Yeah. They went in
25 with backhoes and cleaned them all out.

1 MR. LOWERY: That's when they worked on
2 Piney Road around through there. That's been since
3 Ben has been in office.

4 MR. ROGERS: Is this on Gulch Road?

5 MR. LOWERY: It's on Piney Circle or
6 something like that.

7 MR. FAIRCLOTH: It's right here off of
8 136. It's Tony Road actually. And, you know, it
9 could have been resolved, just move the creek a
10 little bit. It wouldn't hurt nothing, I wouldn't
11 think. I know you can't do that. Anyway, I just
12 wanted to be on record telling you. I hope you
13 could help us because we need help. And please put
14 the word out there because there's going to be a lot
15 more of this going on. You need some kind of permit
16 before they build or something, you know, because
17 you can't go out there when it's electrical time.
18 It's too late.

19 MS. MOORE: So it's going back to
20 probably issuing building permits and then they
21 would be aware of everything up front once you do a
22 building permit, which we're not doing right now.
23 Like you said, when you do an electrical inspection,
24 it's already too late. They've already started
25 building.

1 MR. LOWERY: May be something we need
2 to do to help people avoid --

3 MR. FAIRCLOTH: When you get your perk
4 test to make sure --

5 MS. MOORE: Through the Health
6 Department.

7 MR. FAIRCLOTH: Before everything
8 starts.

9 MR. LOWERY: Yeah. Because once you
10 get a house built, ten feet is as good as a mile.

11 MR. FAIRCLOTH: It's going to be hard
12 to move. You know, I didn't want to hurt anything.
13 I didn't know I was hurting anything. Okay. That's
14 all I've got.

15 MR. LOWERY: Thank you. Anyone else?
16 Hearing none, we'll just call this meeting
17 adjourned. Thank everybody for coming.

18
19 END OF MEETING
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21
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23
24
25

REPORTER'S CERTIFICATE

STATE OF TENNESSEE)
)
COUNTY OF HAMILTON)

I, Erin M. Flatt, Court Reporter and
Notary Public, in and for Hamilton County and the
State of Tennessee at Large, do hereby certify that
I reported in machine shorthand the proceedings had
in the above-styled cause on the 3rd day of

July, 2008;

That the said proceedings were
reduced to typewriting under my personal supervision;
and that the foregoing is a transcript of said
proceedings.

This the 31st day of July, 2008.

Erin M. Flatt
Erin M. Flatt, Notary Public
in and for the State of
Tennessee at Large.
My commission expires
November 7, 2010.